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**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Will Powers, Ph.D.

Respondent.

Case No. W212


OAH No. L-2001080429

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Psychology, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 18, 2002.

It is so ORDERED January 18, 2002.



FOR THE BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
MARTIN R. GREENBERG, Ph.D., PRESIDENT

1 BILL LOCKYER, Attorney General
of the State of California
2 CINDY M. LOPEZ, State Bar No. 119988
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PSYCHOLOGY**
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. W212

12 WILL POWERS, Ph.D.

OAH No. L-2001080429

13 Respondent.

14 **STIPULATED SURRENDER OF**
LICENSE AND ORDER

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
17 proceeding that the following matters are true:

18 PARTIES

19 1. Thomas S. O'Connor (Complainant) is the Executive Officer of the Board
20 of Psychology. He brought this action solely in his official capacity and is represented in this
21 matter by Bill Lockyer, Attorney General of the State of California, by Cindy M. Lopez, Deputy
22 Attorney General.

23 2. Will Powers, Ph.D. (Respondent) is representing himself in this
24 proceeding and has chosen not to exercise his right to be represented by counsel.

25 3. On or about November 13, 1993, the Board of Psychology issued
26 Psychology License Number PSY 13619 to Will Powers, Ph.D.

27 JURISDICTION

28 4. Accusation No. W212 was filed before the Board of

1 Psychology (Board), Department of Consumer Affairs, and is currently pending against
2 Respondent. The Accusation, together with all other statutorily required documents were
3 properly served on Respondent on June 21, 2001. Respondent timely filed his Notice of Defense
4 contesting the Accusation.

5 ADVISEMENT AND WAIVERS

6 5. Respondent has carefully read, and understands the charges and
7 allegations in Accusation No. W212 Respondent also has carefully read, and
8 understands the effects of this Stipulated Surrender of License and Order.

9 6. Respondent is fully aware of his legal rights in this matter, including the
10 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
11 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
12 the right to present evidence and to testify on his own behalf; the right to the issuance of
13 subpoenas to compel the attendance of witnesses and the production of documents; the right to
14 reconsideration and court review of an adverse decision; and all other rights accorded by the
15 California Administrative Procedure Act and other applicable laws.

16 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
17 each and every right set forth above.

18 CULPABILITY

19 8. Respondent admits that he pled no contest to one count of a violation of
20 Business and Professions Code section 729, subdivision (b) (1), and has been placed on criminal
21 probation for three years, with the requirement that he agree to surrender his license to the Board
22 of Psychology and agrees that cause exists for discipline and hereby surrenders his Psychology
23 License Number PSY 13619 for the Board's formal acceptance.

24 9. Respondent understands that by signing this stipulation he enables the
25 Board to issue its order accepting the surrender of his Psychology License without further
26 process.

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CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Psychology. Respondent understands and agrees that counsel for Complainant and staff of the Board of Psychology may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Psychology License No. PSY 13619 issued to Respondent Will Powers, Ph.D. is surrendered and accepted by the Board of Psychology.

13. Respondent shall lose all rights and privileges as a Psychologist in California as of the effective date of the Board's Decision and Order.

14. Respondent shall cause to be delivered to the Board both his license and wallet certificate on or before the effective date of the Decision and Order.

15. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation, No. W212 will be deemed to

1 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
2 the petition.

3 16. Respondent shall pay the Board its costs of investigation and enforcement
4 in the amount of \$3,500.00 within one year from the effective date of the Board's Decision and
5 Order .

6 ACCEPTANCE

7 I have carefully read the Stipulated Surrender of License and Order. I understand
8 the stipulation and the effect it will have on my Psychology License. I enter into this Stipulated
9 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
10 by the Decision and Order of the Board of Psychology.

11 DATED: 12/7/01.

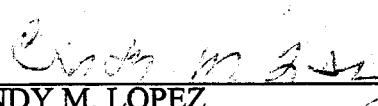
12
13 
14 WILL POWERS, PH.D.
Respondent

15
16
17 ENDORSEMENT

18 The foregoing Stipulated Surrender of License and Order is hereby respectfully
19 submitted for consideration by the Board of Psychology of the Department of Consumer Affairs.

20
21 DATED: 12-26-01.

22
23 BILL LOCKYER, Attorney General
24 of the State of California

25 
26 CINDY M. LOPEZ
27 Deputy Attorney General

28 Attorneys for Complainant

BILL LOCKYER, Attorney General
of the State of California
CINDY M. LOPEZ, State Bar No. 119988
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Attorneys for Complainant

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. W212

WILL POWERS, PH.D.
1821 N. Magellan Drive
Santa Maria, Ca 93454-1577

ACCUSATION

Psychology License No. PSY 13619

Respondent.

Complainant alleges:

PARTIES

1. Thomas S. O'Connor ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Board of Psychology, Department of Consumer Affairs.

2. On or about November 13, 1993, the Board of Psychology issued Psychology License Number PSY 13619 to Will Powers, Ph.D. ("Respondent"). The Psychology License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2003.

JURISDICTION

3. This Accusation is brought before the Board of Psychology ("Board"), under the authority of the following sections of the Business and Professions Code ("Code").

4. Section 2960 of the Code states:

The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(o) Any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant or registered psychologist.

5. Section 2960.1 of the Code states:

Notwithstanding Section 2960, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 728, when that act is with a patient, or with a former patient within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

6. Section 729 of the Code states:

Any psychotherapist who engages in sexual intercourse, sodomy, oral copulation,

1 or sexual contact with a patient, or with a former patient, is guilty of sexual exploitation
2 by a psychotherapist. In no instance shall consent of the patient be a defense.

3 7. Section 2964.6 of the Code states:

4 An administrative disciplinary decision that imposes terms of probation may
5 include, among other things, a requirement that the licensee who is being placed on
6 probation pay the monetary costs associated with monitoring the probation.

7 8. Section 125.3 of the Code states, in pertinent part, that the Board may
8 request the administrative law judge to direct a licentiate found to have committed a
9 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs
10 of the investigation and enforcement of the case.

11
12 FIRST CAUSE FOR DISCIPLINE

13 (Sexual Misconduct)

14 9. Respondent is subject to disciplinary action under sections 729 and 2960
15 in that respondent committed acts of sexual misconduct and exploitation with a patient. The
16 circumstances are as follows:

17 a. On or about April 6, 2000, L.H. and her husband M.H. saw respondent
18 for an intake interview. He saw them as a couple on April 13, April 20, May 11
19 and June 8, 2000. He saw L.H. individually on May 18 and May 22, 2000. He
20 saw M.H. individually in June, 2000

21 b. L.H. and M.H. went to see respondent because both knew their marriage of 25
22 years was in trouble.

23 c. At their first appointment, respondent talked to them separately and then
24 together. They were given a survey to take regarding their marriage. This survey
25 showed they were both extremely unhappy and did not communicate with each other.
26 M.H. was reserved with respondent, while L.H. found it easy to talk to him.

27 d. On the third visit, respondent said he wanted to see L.H. by herself and an
28 appointment was scheduled for May 18, 2000. The first thing respondent asked her about

1 was her sex life with M.H. The question surprised her because they had not previously
2 talked about this subject. L.H. told him her husband had stopped touching her and had
3 stopped enjoying sex. She felt insecure as a woman and insecure in her marriage.
4 Respondent told L.H. that he found her very attractive and said that she reminded him of
5 his ex-wife, Beatrice. L.H. was excited that at least someone was looking at her. The
6 session was more flirting than counseling. They made an appointment for the following
7 week and as she left, respondent placed his hand on her shoulder.

8 e. When L.H. came home from this first session, M.H. asked her how the session
9 went. She did not want to talk about it and M.H. had an uneasy feeling. When he asked if
10 respondent had touched L.H. or made any advances, she told her husband not to be
11 ridiculous and said he was acting jealous over nothing.

12 f. The next session L.H. had with respondent was on May 22, 2000. L.H. told
13 him she was depressed about the marriage and not sure if it would last. L.H. brought up
14 Dr. Powers' statement the previous session about finding her attractive. Respondent said
15 he had spoken to one of his colleagues about L.H. His colleague told respondent to let
16 L.H. know his feelings about her. Again the session ended with more flirting. As L.H.
17 left, she gave him a business card with her e-mail address and telephone number. She
18 told him to call her if he would like to have a glass of wine together sometime.
19 Respondent asked L.H. if she would like to have an affair and she said yes. Respondent
20 kissed L.H. like she had not been kissed in years.

21 g. When respondent returned from a conference in Los Angeles, he told L.H. to
22 tell her husband that they had a standing appointment during the week. Respondent
23 wanted L.H. to park her car at the office and then ride with him to his house. She told
24 him she would just meet him at his house because she did not want to lie to M.H. about
25 being at his office. L.H. knew that what she was about to do was not right, but she was
26 extremely unhappy and needed to feel good about something.

27 h. Each time L.H. was at respondent's house, she had a glass of wine and felt out
28 of control. She could not understand why one glass of wine would make her unable to

1 walk and act in a way that was very unlike her. L.H. wondered if respondent put
2 something in her drink.

3 i. L.H. had sex with respondent a total of four times, three times in the latter part
4 of June 2000 and once in August 2000. After they would have sex, respondent would tell
5 L.H. about his life, his ex-wife and his sexual experiences. He told her that she should
6 have at least ten other men to explore life and find herself. When they had sex,
7 respondent used Viagra. They primarily had oral sex because he had difficulty
8 maintaining an erection. He showed L.H. how to use a vibrator, something she had never
9 done before.

10 j. M.H. went to respondent's office on a Saturday and told him they needed to
11 meet as a couple again. M.H. was feeling a distance between himself and his wife and
12 felt something was wrong. Respondent made an appointment for the three of them to
13 meet again. L.H. could not understand how respondent could do this knowing that they
14 had been involved sexually. L.H. felt very upset sitting between her husband of 25 years
15 and the man she was having sex with. M.H. felt respondent acted very distant from him.
16 M.H. talked about his frustrations and fears that all was not going well. M.H. asked why
17 he had not been brought back into the sessions. L.H. said she could not do this anymore
18 and said she was going to leave her husband. M.H. was devastated because he went to
19 respondent for help and now felt counseling had made everything worse.

20 k. The next time L.H. met respondent at his house, he was very nervous and had
21 already been drinking when she arrived. Respondent told her he was seeing another
22 patient for sex therapy. He said she was 50 years old and a widow. Respondent told L.H.
23 that he showed this other patient sex videos at the house, but she was not good in bed. He
24 seemed aggravated because this other woman was showing up at his house unannounced
25 and he did not want her to come over while he might have another woman there. It was
26 then L.H. knew what he was doing to women. He told L.H. he was seeing up to nine
27 other women while he was seeing her.

28 l. L.H. thought of herself as a good wife for 25 years and never had sex with

1 anyone else in her life except with her husband; that is, until she met respondent.

2 m. On March 29, 2001, patient L.H. made a pretext phone call to respondent,
3 which was tape recorded. L.H. told respondent that she had separated from her husband in
4 January 2001 and that she had been thinking about respondent. He replied that he wanted
5 to have lunch with her and that he loved looking into her eyes, just for the "abject
6 pleasure." When L.H. hesitated about having lunch, he asked her if she was afraid he
7 would "put the moves on her." He also stated: "I don't want you to feel like, now that
8 we've had lunch, when do we go to the bedroom?" L.H. told respondent she found out
9 two things about herself from their relationship—that she is attractive and she is good at
10 sex. Respondent responded, "Absolutely...I don't think you have any worries." He also
11 said: "Goodness, gracious, see it was really therapeutic; I wasn't doing it for my own
12 pleasure...I was just being therapeutic."

13 n. Respondent departed from the standard of practice as follows:

14 (i) In the context of a psychotherapist/patient relationship, respondent used his
15 status as L.H.'s and M.H.'s therapist to mislead L.H. into a sexual relationship, thus
16 exploiting their trust in him. Respondent led L.H. to believe that such a relationship
17 would be therapeutic for her—a dishonest and fraudulent act.

18 (ii) Respondent engaged in sexual intimacy with L.H.; he kissed her in his office
19 after flirting with her through an individual session and he engaged in sex with her at his
20 home.

21 22 SECOND CAUSE FOR DISCIPLINE

23 (Gross Negligence)

24 10. Respondent is subject to disciplinary action under section 2960,
25 subdivision (j) in that he had sexual relations with a patient. The circumstances are as follows:

26 a. The facts and opinions stated in paragraph 9 are
27 incorporated by reference herein as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Psychology issue a decision:

1. Revoking or suspending Psychology License Number PSY 13619, issued to Will Powers, Ph.D.;
2. Ordering Will Powers, Ph.D. to pay the Board of Psychology the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: June 21, 2001.



THOMAS S. O'CONNOR
Executive Officer
Board of Psychology
Department of Consumer Affairs
State of California
Complainant

2Accusation.wpt 9/28/00

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation Filed
Against:

Will Powers, Ph.D.

No. : W212

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Ste. 22 Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Will Powers, Ph.D.
1821 N. Magellan Drive
Santa Maria, CA 93454-1577

7001 2510 0009 0282 5835

John Hope
705 E. Main St., # 205
Santa Maria, CA 93454


7001 2510 0009 0282 5828

Cindy M. Lopez
Deputy Attorney General
300 S. Spring St., Ste. 1702
Los Angeles, CA 90013

Each said envelope was then on, January 18, 2002, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, January 18, 2002, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


DECLARANT
Mary Laackmann
Enforcement Analyst